

**Introduced by Senator Speier**

February 21, 2002

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Senate Constitutional Amendment No. 9—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending paragraph (g) of Section 2 of Article XIII A thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 9, as introduced, Speier. Property taxation: changes in ownership: exclusion: cohabitants.

Existing provisions of the California Constitution, with certain exceptions, place a limitation on ad valorem taxes on real property of 1% of the full cash value of that property. For purposes of this limitation, full cash value is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. The California Constitution excludes certain transfers of real property between spouses from classification as a “purchase” or “change in ownership” requiring reappraisal of the subject property for tax purposes.

This measure would exclude the transfer between cohabitants of a personal residence from classification as a “purchase” or “change in ownership,” if the cohabitants coowned and resided in the personal residence for a period of 5 years before the transfer and the transfer is made either by reason of the death of the transferor or by a transferor who has been certified to have a terminal illness or terminal disease, as defined.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1     *Resolved by the Senate, the Assembly concurring,* That the  
2     Legislature of the State of California at its 2001–02 Regular  
3     Session commencing on the fourth day of December 2000,  
4     two-thirds of the membership of each house concurring, hereby  
5     proposes to the people of the State of California that the  
6     Constitution of the State be amended by amending subdivision (g)  
7     of Section 2 of Article XIII A thereof, to read:

8     (g) *(1)* For purposes of subdivision (a), the terms “purchased”  
9     and “change in ownership” do not include the purchase or transfer  
10    of real property between spouses since March 1, 1975, including,  
11    but not limited to, all of the following:

12    ~~(1)–~~

13    (A) Transfers to a trustee for the beneficial use of a spouse, or  
14    the surviving spouse of a deceased transferor, or by a trustee of  
15    such a trust to the spouse of the trustor.

16    ~~(2)–~~

17    (B) Transfers to a spouse that take effect upon the death of a  
18    spouse.

19    ~~(3)–~~

20    (C) Transfers to a spouse or former spouse in connection with  
21    a property settlement agreement or decree of dissolution of a  
22    marriage or legal separation.

23    ~~(4)–~~

24    (D) The creation, transfer, or termination, solely between  
25    spouses, of any coowner’s interest.

26    ~~(5)–~~

27    (E) The distribution of a legal entity’s property to a spouse or  
28    former spouse in exchange for the interest of the spouse in the legal  
29    entity in connection with a property settlement agreement or a  
30    decree of dissolution of a marriage or legal separation.

31    (2) *For purposes of subdivision (a), the terms “purchased” and*  
32    *“change in ownership” do not include the purchase or transfer of*  
33    *the principal residence of a transferor to a cohabitant of that*  
34    *personal residence, if all of the following requirements are*  
35    *satisfied:*

1     (A) *The personal residence was coowned by the transferor and*  
2 *the transferee for the five-year period immediately preceding the*  
3 *transfer.*

4     (B) *The transferor and the transferee continuously resided as*  
5 *cohabitants of the residence for the five-year period immediately*  
6 *preceding the transfer.*

7     (C) *The transfer is made under either of the following*  
8 *circumstances:*

9     (i) *By reason of the death of the transferor.*

10    (ii) *The transferor has been certified in writing by a licensed*  
11 *physician and surgeon to have a terminal illness or terminal*  
12 *disease. For purposes of this clause, “terminal illness” or*  
13 *“terminal disease” means a medical condition resulting in a*  
14 *prognosis of life of two years or less if the disease follows its*  
15 *natural course.*

